IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO. 31 OF 2004

SHRI P.J.AUGUSTINE, PANAJI GOA. ....Petitioners

Versus

ADV.WINNIE COUTINHO AND 2 ORS., ...Respondents

Mr. G.Vijay Chandran, advocate for the petitioner.
Mr. S.G. Dessai, Senior Advocate with Mr. Shivan Dessai, advocate for the respondent no.1.

Coram:- S.S. PARKAR, J.

Date:- 20th July, 2005

P.C.

The challenge in this petition is made against the Order dated 4th March, 2004, passed by the Civil Judge, Junior Division, Panaji, deleting the name of defendant no.1 from the cause list.

The impugned Order was passed in view of the written application made on 17th October, 2003, by the defendant no.1 stating therein that the said defendant has no interest in the suit premises and that the same had remained closed for some years. It is further stated that defendant no.1 has no interest in the portion of the suit premises and has no interest to claim possession of the said premises as this defendant had acquired new premises for her office purposes. She has also by the said application withdrawn the counter-claim which was earlier filed by her in the said suit.

The grievance made on behalf of the petitioner, original plaintiff is that instead of deleting the name of defendant no.1 as a party defendant, the trial Court ought to have passed a judgment under Rule 2 of Order 15 C.P.C. Technically, the petitioner may be correct but looking to the reliefs which are claimed in the plaint and the fact that the defendant no.1 has expressly stated on affidavit dated 17th Octobr, 2003, before the trial Court that she has got no interest or claim in the suit premises, the

impugned Order need not be quashed and set aside, particularly when after notice issued to her the counsel appearing for defendant no.1 makes a statement to this Court that the defendant no.1 shall not claim any right in respect of the suit premises. The said statement is accepted.

In view of the above statement made on behalf of the respondent no.1/original defendant no.1 I see no reason to interfere with the impugned Order and, therefore, dismiss this Civil Revision Application.

S.S. PARKAR, J.